

November 8, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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800.565.PSWN

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
TW-A325
445 Twelfth Street, SW
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: *Comments on Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support New Advanced Wireless Services, Including Third Generation Wireless Systems, ET Docket No. 00-258, et. al. (as consolidated)*

Dear Ms. Salas:

On behalf of the Public Safety Wireless Network (PSWN) Program and pursuant to Section 1.419 of the Commission's Rules, 47 C.F.R. § 1.419 (2000), enclosed herewith for filing are an original and four (4) copies of the PSWN Program's Comments in the above-referenced proceeding.

Kindly date-stamp and return the additional, marked copy of this cover letter and filing.

Should you require any additional information, please contact the undersigned.

Respectfully submitted,

Paul H. Wieck II

Brigadier General Paul H. Wieck II
Iowa Army National Guard
Chair, PSWN Executive Committee
Spectrum Working Group

Steven Proctor

Steven Proctor
Executive Director,
Utah Communications Agency Network
Executive Vice-Chair,
PSWN Executive Committee

*"No man, woman,
or child should
lose his or her
life because public
safety officials
cannot talk to
one another."*

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Before the
Federal Communications Commission
Washington, DC 20554

| | | |
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| In the Matter of |) | |
| |) | |
| Amendment of Part 2 of the Commission's Rules |) | ET Docket No. 00-258 |
| To Allocate Spectrum Below 3 GHz For Mobile |) | |
| and Fixed Services to Support New |) | |
| Advanced Wireless Services, Including Third |) | |
| Generation Wireless Systems |) | |
| |) | |
| Amendment of Section 2.106 of the Commission's |) | ET Docket No. 95-18 |
| Rules to Allocated Spectrum at 2 GHz for Use by |) | |
| The Mobile-Satellite Service |) | |
| |) | |
| The Establishment of Policies and Service Rules |) | IB Docket No. 99-81 |
| For the Mobile-Satellite Service in the 2 GHz Band |) | |

To: The Commission

**COMMENTS OF THE PUBLIC SAFETY WIRELESS
NETWORK (PSWN) PROGRAM**

1. The Public Safety Wireless Network (PSWN) Program¹ hereby submits the following Comments in response to the Commission's Further Notice of Proposed Rulemaking (FNPRM), FCC 01-224 (released August 20, 2001)² in the above-captioned proceedings regarding the use of frequency bands below 3 gigahertz (GHz) to support the introduction of new, advanced mobile and fixed terrestrial wireless services, including third generation (3G) and future generation wireless services (referred to hereinafter as advanced wireless services). These

¹ The PSWN Program is a federally funded initiative operating on behalf of all local, state, and federal public safety agencies. The Department of Justice and the Department of the Treasury are jointly leading the PSWN Program's efforts to plan and foster interoperability among public safety wireless networks. The PSWN Program is a 10-year initiative that is an effort to ensure that no man, woman, or child loses his or her life because public safety officials cannot talk to one another.

² See *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 6 Fed. Reg. 46718 (2001)(*Second MO&O and FNPRM*).

Comments are limited to the proposed reallocation of spectrum affecting the private operational-fixed microwave (POFS) licensees in the 2 GHz spectrum.

I. INTRODUCTION

2. The PSWN Program appreciates the opportunity to provide Comments and respectfully recommends the following policy initiatives to the Commission related to this rulemaking. On behalf of the public safety community, the PSWN Program submits these recommendations for the development of rules and procedures to guide the orderly, efficient migration of public safety users in the 2 GHz band to newly designated spectrum, in accordance with the Commission's Rules.

II. THE PSWN PROGRAM SUPPORTS APCO'S RECOMMENDATIONS CONCERNING CURRENT PUBLIC SAFETY LICENSEES IN SPECTRUM UNDER 3 GHz

A. Mandatory 3-Year Relocation Negotiations for Public Safety Users

3. The Association of Public-Safety Communications Officials-International, Inc. (APCO) filed Comments in the above-captioned dockets on October 19, 2001.³ In these Comments, APCO requested that the Commission apply the same mandatory 3-year negotiation period required under the Commission's Rules⁴ for relocation of incumbent public safety communications users in this band, as was adopted in the proceedings for Emerging

³ See *Comments of APCO, ET 00-258, et seq.*

⁴ *Id.*, at page 4.

Technologies, ET Docket No. 92–9.⁵ APCO states that the mandatory negotiation period “should not begin unless and until an advanced wireless provider, using the TSB–86 interference criteria (or some other comparable interference standard), notifies the POFS incumbent in writing that both operations cannot share the same spectrum.”⁶ The PSWN Program agrees that such a procedure is also appropriate in this matter and that the Commission should state in definitive language that “each mandatory negotiation period should begin only when a POFS incumbent receives written notice from an advanced wireless service licensee.”⁷

B. Sunset Provisions

4. Furthermore, APCO voiced opposition to any sunset provisions that might be imposed by the Commission pertaining to relocation rules for advanced wireless services.⁸ APCO requested that if the Commission did indeed adopt such rules, that the rules should be clarified to specify that the statute of limitations would not begin to run until the first advanced wireless services licensee submitted written notice to the first POFS incumbent of that licensee’s desire to negotiate.⁹ APCO reasoned that the 10-year sunset period adopted by the Commission¹⁰ would serve to adequately protect the interests of all current users in that band. Finally, APCO requested that the Commission issue a Public Notice ensuring that all POFS incumbents have a date certain for completion of the migration process.

⁵ *Id.*, at page 4, fn. 5, citing *Redevelopment of Spectrum to Encourage Innovation in the Use of Telecommunications Technologies, ET Docket No. 92–9, First Report and Order (First R & O) and Third NPRM, 7 FCC Rcd 6886 (1992), et. al.*

⁶ *Id.*, at page 3.

⁷ *Id.*, at page 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ See *Comments of APCO*, at pages 4–5.

5. The PSWN Program considers this course of action satisfactory to protect the interests of public safety users and suggests that the Commission adopt clear and unambiguous language that affirms these procedures. As a consequence, negotiations between incumbents and advanced wireless service licensees will not run the risk of further delay due to protracted litigation, and the band will be available for emerging technologies to promote new and innovative applications that use the spectrum to its best advantage. Notice provisions, as suggested by APCO, would reduce any confusion and give all parties a deadline to complete the transition or lose access to valuable spectrum.

C. Sharing of 2 GHz Spectrum

6. In addition, the PSWN Program supports the APCO proposal that POFS incumbents and advanced wireless services share the 2 GHz spectrum where technically feasible. It is further recommended that POFS incumbents be permitted to maintain primary status in the bands. As APCO stated, commenting on the necessity of wireless communications in search and rescue efforts in New York City following the terrorist attacks on the World Trade Center towers, “[t]he microwave infrastructure was essential to restoring and maintaining critical public safety communications.”¹¹

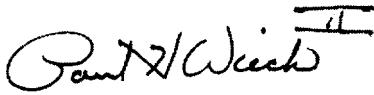
III. CONCLUSION

7. The PSWN Program again thanks the Commission for the thorough consideration of the recommendations submitted and expresses its appreciation to the many other parties who

¹¹ *Id.*, at page 5.

have contributed to this rulemaking. The PSWN Program is confident that the Commission will weigh the alternatives available in this matter, along with the concerns voiced by members of the public safety community, and will respond to the concerns presented and provide for them accordingly.

Respectfully submitted,



Brigadier General Paul H. Wieck II
Iowa Army National Guard
Chair, PSWN Executive Committee
Spectrum Working Group



Steven Proctor
Executive Director,
Utah Communications Agency Network
Executive Vice-Chair,
PSWN Executive Committee

Before the
Federal Communications Commission
Washington, DC 20554

Certificate of Service

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| |) | |

I, Richard N. Allen, Senior Associate, Booz Allen Hamilton, 8283 Greensboro Drive, McLean, Virginia, 22102-3838, hereby certify that on this date I caused to be served, by first-class mail, postage prepaid (or by hand where noted) copies of the Public Safety Wireless Network Program's Comments on the above-captioned matter, the original of which is filed herewith and upon the parties identified on the attached service list.

DATED at Fair Oaks, Virginia this 8th day of November 2001.



Richard N. Allen

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